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November 25, 2002

Hon. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals II
445 12 St., SW
Washington, D.C. 20554

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DEC - 4 2002

*Federal Communications Commission
Office of the Secretary*

RE: Comments of the New York State Department of
Public Service in the Matter of the Petition of
the California Public Utilities Commission for
Authority to Implement Technology-Specific
Overlays; CC Docket No. 99-200

Dear Secretary Dortch:

The New York State Department of Public Service ("NYDPS") submits these comments in response to the Federal Communications Commission's (Commission) Wireline Competition Bureau Public Notice ("Notice") issued October 24, 2002. The Notice seeks comment on the petition of the California Public Utilities Commission ("CPUC") for delegated authority to implement two expanded transitional specialized overlays ("SOs"). Specifically, the CPUC's petition would put geographically-independent services such as fax machines and modems for larger businesses into a new area code, as well as services such as E-Fax and On Star, on a prospective basis.¹ The CPUC also requests that wireless customers in two of the underlying area codes be placed in the new SO, without a 10-digit dialing requirement. California's solution presents a creative approach

¹ Large businesses with existing devices will not be required to change their area code.

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to optimizing number use while limiting the effects of the transition to a new area code.²

In recognition that states should have flexibility in crafting area code relief to address local needs and to mitigate difficult transition issues, the Commission has delegated authority to the states to carry out this relief. In the Number Resource Optimization Third Report and Order (CC Docket 96-98 and CC Docket 99-200) the Commission added to the list of options available to the states a specialized overlay and lifted the ban on service-specific and technology-specific overlays. Area code relief is a difficult transition for all stakeholders. Service providers must modify switch translations and permissible dialing arrangements; consumers must alert friends and families to new numbers; businesses must change stationery and advertising; and alarm companies must visit many customer locations to reprogram auto-dialers. Here, there will be few adverse consequences to large businesses. Existing businesses will not be required to change their stationery or advertising since only new fax machines and modems will be placed in the SO. Moreover, consumers will know that modems and fax machines of large businesses and other non-voice services will all use the same area code, and the competitive issues underlying the earlier numbering changes are not present here because the carriers will assign the same area code for this type of equipment.

The NYDPS supports the retention of the seven-digit number. A technology-specific overlay can be done with little interruption and will not impede the growth of wireless services, even with seven-digit dialing.³ Under the CPUC proposal, all wireless carriers will be on equal footing since

'The Commission set forth eight criteria that states are required to address in their petitions for delegated authority to create overlays. The California Commission has made its required showing and has set forth its rationale for the need for the SO by responding to each criterion. The Commission should find that the California Commission has met its burden of proof.

³ This petition mirrors the New York Public Service Commission's implementation of the first ever overlay code in the country. The 917 area code for the City of New York was initiated in 1992 and continues to be used primarily by wireless service providers. Seven-digit dialing has not impeded the growth of wireless services, with over three million wireless phones in the 917 area code.

all wireless customers will be in the overlay area codes. There will be no dialing disparity among wireless providers.

For all of the reasons stated, the Bureau should act favorably on the petition.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lawrence G. Malone".

Lawrence G. Malone
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Public Service Commission of
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